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Chairman: Mr. AFONSO (Mozambique)

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The meeting was called to order at 10.15 a.m.

AGENDA ITEM 129: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-FOURTH SESSION (continued) (A/46/17)

1. Mr. NEUHAUS (Australia) welcomed the progress made at the twenty-fourth session of UNCITRAL in finalizing a draft Model Law on International Credit Transfers and expressed the hope that the Commission would soon complete its work on that topic as well as its preparation of a model law on procurement, a uniform law on guarantees and stand-by letters of credit, and a legal guide on drawing up countertrade contracts.

2. With regard to the United Nations Decade of International Law, his delegation supported the proposal to hold a Congress on International Trade Law in 1992, in the context of the twenty-fifth session of the Commission; the proposed Congress ought to concentrate on the future direction of UNCITRAL, the Commission's modus operandi and its relations with other organizations. Australia was prepared to contribute to the organization of the Congress by identifying Australian speakers and by examining the possibility of financing some of the costs.

3. While his delegation was interested in UNCITRAL's work on electronic data interchange (EDI), it was important that the Commission should not duplicate the work of other organizations, particularly with regard to the preparation of a standard communications agreement for use in international trade.

4. His delegation shared the view that it was better to postpone the endorsement of the text of INCOTERMS to the twenty-fifth session of UNCITRAL. It also welcomed efforts to improve coordination between UNCITRAL and other international organizations working for the development of international trade law.

5. With regard to the status of UNCITRAL instruments, Australia was party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the 1980 United Nations Convention on Contracts for the International Sale of Goods; his country was also actively considering accession to the 1988 United Nations Convention on International Bills of Exchange and International Promissory Notes, and to the 1978 United Nations Convention on the Carriage of Goods by Sea.

6. In the area of training and assistance, Australia would provide financial assistance for the organization of the seminar to be held in Fiji in coordination with the annual Australian Trade Law Conference. That Conference would consider several issues that constituted an important part of the work of UNCITRAL, giving an indication of the significance Australia attached to that work.

7. Ms. KOFLER (Austria) said that the draft Model Law on International Credit Transfers elaborated by the Working Group on International Payments was an important contribution to the harmonization of regulations in a field that was constantly developing, especially in so far as electronic funds transfers were concerned.

8. Her delegation noted with interest the progress made by the Working Group on the New International Economic Order in formulating a draft model law on procurement, by the Working Group on International Payments in identifying the legal issues arising in electronic data interchange, and by the Working Group on International Contract Practices in elaborating a uniform law on guarantees and stand-by letters of credit.

9. With regard to training and assistance in the field of international trade law, she emphasized the importance of the programme of regional seminars and the symposium on the work of the Commission which was held during each of the Commission's sessions. Thus she could only welcome the fact that the Secretariat intended to intensify its efforts in that area.

10. With respect to the United Nations Decade of International Law, her delegation had noted with interest the proposal to hold a Congress on International Trade Law in conjunction with the twenty-fifth session of the Commission in order to review the progress made in the progressive unification and harmonization of international trade law as well as future needs in a field in which UNCITRAL was doing valuable work.

11. Mr. HUNJA (Kenya) said that his country attached great importance to the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade, elaborated by UNCITRAL. The text of the draft Model Law on International Credit Transfers should enjoy the widest possible agreement and should reflect the reality of highly diverse situations. The Model Law should therefore constitute a compromise between the needs of countries in which international transfers were both high-volume and high-speed and the needs of countries in which such transfers did not make use of the latest technologies.

12. While his delegation welcomed the progress made on other UNCITRAL projects, it was very concerned about the low level of representation of developing countries in the Commission's working groups, which reflected not a lack of interest but rather a lack of adequate financial resources to ensure the involvement of experts from those countries. It would be difficult for the developing countries to endorse texts if they had not been able to participate in the deliberations. His delegation therefore hoped that the report which the Secretary-General would submit pursuant to General Assembly resolution 45/42 would contain constructive proposals on that subject.

13. In conclusion, his delegation noted with satisfaction the proposal to hold a Congress on International Trade Law in the context of the twenty-fifth session of the Commission and welcomed the increased activity in the area of training and assistance.

14. Mr. JOEDO (Indonesia) said he was certain that, despite the complexity of the issues involved, the Commission would continue its pioneering efforts to elaborate a Model Law on International Credit Transfers.

15. His delegation was gratified to note the progress made on the draft legal guide on drawing up countertrade contracts. The rapid growth of countertrade, which currently accounted for 20-30 per cent of all international trade, was due largely to the world debt crisis; the developing countries in particular resorted to countertrade in the hope of reducing their trade deficits, achieving greater industrialization and gaining access to the wider international markets. Since 1982, Indonesia had been a leader in encouraging countertrade agreements as an ideal means of creating and strengthening East-West and North-South economic relations.

16. With regard to the legal implications of Electronic Data Interchange (EDI), the Working Group on International Payments had undertaken a careful analysis of a number of standard communications agreements with a view to elaborating a standard communications agreement for use in international trade. Another area that merited attention was the replacement of negotiable documents of title, and more particularly transport documents, by EDI messages.

17. His delegation appreciated the efforts of the Working Group on the New International Economic Order to prepare a model law on procurement. Such an instrument would be particularly helpful to developing countries in reforming their laws on that subject.

18. In the current climate of international cooperation, Indonesia expected a great deal from the United Nations Decade of International Law, which should enhance the progressive development of international trade law and its codification, and welcomed the decision to organize a Congress on International Trade Law in the context of the twenty-fifth session of UNCITRAL, in 1992.

19. The importance of UNCITRAL training and assistance programmes to Governments and lawyers, particularly from developing countries was invaluable. His delegation welcomed the coordination of UNCITRAL activities with those of other bilateral and international organizations involved in the unification of international trade law, in particular the Asian-African Legal Consultative Committee.

20. He concluded by reiterating his delegation's firm commitment to cooperating closely with UNCITRAL, since recent positive trends in the world made the elaboration of legal norms to regulate international trade an urgent task.

21. Mr. CALERO-RODRIGUES (Brazil) said that UNCITRAL was to be praised for refraining from trying to complete its work on the excellent draft Model Law on International Credit Transfers at its twenty-fourth session, even though only three out of eighteen articles remained to be finalized. In so doing,

(Mr. Calero-Rodrigues, Brazil)

the Commission had once again demonstrated its determination not to sacrifice quality to any other constraint. The references to "money laundering" in paragraphs 287 and 288 of the Commission's report (A/46/17) were particularly interesting. While it was true that some domestic legal systems and international instruments already contained provisions to prevent money laundering, the Model Law, with its aim to facilitate, speed up and reduce the cost of international payments, should take that very serious problem into account. His delegation was confident that UNCITRAL would give the matter further consideration, so that the Model Law would be in harmony with existing measures to prevent money laundering.

22. The working groups dealing with procurement, guarantees and stand-by letters of credit and international countertrade had made commendable progress.

23. Regarding the legal problems of electronic data interchange (EDI), his delegation supported the UNCITRAL approach of distinguishing between a general framework identifying the legal issues and providing a set of legal principles and basic legal rules governing communications through EDI on the one hand and the possibility of a standard communication agreement for world-wide use in international trade on the other. It also supported the decision to ask the Working Group on International Payments to prepare the general framework immediately and to consider the feasibility of embarking on the elaboration of a standard communication agreement.

24. The Congress on International Trade Law, to which UNCITRAL had decided to devote a week of its 1992 session, would no doubt make a very important contribution to the United Nations Decade of International Law.

25. Mr. WOOD (United Kingdom) said it was unfortunate that UNCITRAL had been unable to complete negotiation of a final text of the draft Model Law on International Credit Transfers at its twenty-fifth session because of a lack of time. His delegation looked forward to a successful outcome of that work, which should be completed at the twenty-fifth session.

26. His delegation noted with satisfaction the progress made in the areas of procurement and guarantees and stand-by letters of credit, as well as the completion by the Working Group on International Payments earlier that month of its work on the legal guide on countertrade.

27. His delegation was also pleased that the Working Group on International Payments would consider the legal problems presented by electronic data interchange, which should be given priority. It welcomed in particular the decision that the Working Group's main task would be the identification of the basic legal issues involved and the formulation of proposals on a general framework of possible statutory provisions. That decision was in keeping with UNCITRAL recommendations on the legal value of computer records endorsed in General Assembly resolution 40/71.

(Mr. Wood, United Kingdom)

28. Regarding the organization of a Congress on Trade Law in 1992 to mark the United Nations Decade of International Law, his delegation welcomed the Commission's intention to emphasize practical aspects and to involve not only academics but also practising lawyers. He hoped that proposals regarding the Congress would be circulated by the end of October.

29. As to conventions already adopted by UNCITRAL, a decision was expected in the near future on adherence by the United Kingdom to the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on International Bills of Exchange and International Promissory Notes.

30. Ms. LI Yanduan (China) said that her delegation was pleased that the work on the draft Model Law on International Credit Transfers was nearly completed. There was no doubt that such a model law was needed. It must be borne in mind, however, that the gap between the level of economic development of the developed countries and that of the developing countries was reflected also in the development of their international credit transfers. The interests of all countries must therefore be taken into account in drafting the Model Law so that it could be genuinely and widely applied. Further improvements to the text were still necessary, regarding, for example, the definition of "interest" and automatic lapse of payment orders. Her delegation hoped that UNCITRAL would make further efforts to narrow existing differences and soon complete its consideration of the draft Model Law.

31. Her delegation commended the progress made in drafting a model law on procurement, a uniform law on guarantees and stand-by letters of credit, and a legal guide on drawing up international countertrade contracts.

32. The programme of activities for the United Nations Decade of International Law should place great emphasis on international trade law. Her delegation welcomed the decision to hold a Congress on International Trade Law in 1992 in the context of Decade activities.

33. Finally, her delegation hoped that activities relating to the codification, teaching, study and dissemination of international trade law would be strengthened and that the importance of such activities to the development of economic and trade law in developing countries in particular would be taken into account. Her delegation was prepared to work towards that end.

34. Mr. VERENIKIN (Union of Soviet Socialist Republics) said that the draft Model Law on International Credit Transfers had his delegation's support; he expressed the hope that UNCITRAL would continue its consideration of that instrument at its twenty-fifth session.

35. His delegation endorsed the approach whereby UNCITRAL would contribute to the activities marking the United Nations Decade for International Law, particularly the decision to hold a Congress on International Trade Law during

(Mr. Verenikin, USSR)

its twenty-fifth session. The Congress should afford an opportunity to consider the accomplishments achieved in the progressive unification and harmonization of international trade law during the past 25 years and the needs that could be foreseen for the next 25 years. Like the work of UNCITRAL, that Congress would make a positive contribution to the development of trade relations between States under mutually advantageous conditions and to the establishment of a more just international legal order.

36. Mrs. GOLAN (Israel) said that her country supported the efforts of UNCITRAL to promote training and assistance in international trade law. She herself had attended the seminar organized in Vienna during the twenty-fourth session of UNCITRAL and wished to thank the Secretariat for organizing the seminar and for the excellent speakers. For the future, UNCITRAL should coordinate its activities more closely with those of other international organizations in the fields of international law, private law and private international law in order to avoid duplication of efforts.

37. Mr. VILLEGAS (Mexico), speaking also on behalf of the delegations of Chile, Colombia, Ecuador, Uruguay and Venezuela, noted with satisfaction the progress made with regard to the draft Model Law on International Credit Transfers, which would provide legislators in every country with a uniform instrument to fill in the gaps existing in practically all legislative systems, in particular those relating to electronic funds transfers. Since the draft Model Law took into consideration current trade practices and needs in addition to legal solutions from all regions of the world, it was hoped that a large number of countries would adopt its provisions, not only in respect of their international credit transfers but also for the regulation of their domestic payment systems.

38. It was to be hoped that, at its twenty-fifth session, UNCITRAL could also complete the draft legal guide on drawing up contracts in international countertrade transactions, which would be very useful for countries lacking foreign exchange.

39. Demonstrating its pragmatism once again, UNCITRAL had rightly decided to give a practical orientation to the Congress on International Trade Law which it planned to hold during its twenty-fifth session.

40. The six delegations noted with satisfaction that, during the past year, UNCITRAL had co-sponsored interesting seminars in Costa Rica, Honduras and Ecuador and hoped that it would continue in that manner to focus on Latin America. They awaited with interest the report, to be prepared in accordance with General Assembly resolution 45/42, on ways by which assistance could be given to developing countries that were members of the Commission, so that they might increase their attendance at the meetings of the Commission and its working groups.

41. The six delegations endorsed the work done on guarantees and stand-by letters of credit and on procurement. With regard to the legal problems

(Mr. Villegas, Mexico)

arising from electronic data interchange, they hoped that the Working Group on International Payments would recommend the drafting of a standard agreement, the need for which was increasingly clear. The drafting of such an agreement should be entrusted to an organization of a universal nature.

42. Mr. RAYA (Philippines) said that his delegation took particular note of the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade, to which his country was a signatory, and of the draft Model Law on International Credit Transfers. It was following with interest the progress of the work on procurement, guarantees and stand-by letters of credit, and countertrade operations. It also took note of the various conventions which had already been elaborated, such as the United Nations Convention on the Carriage of Goods by Sea ("the Hamburg Rules") and the Convention on the Limitation Period in the International Sale of Goods. The UNCITRAL Model Law on International Commercial Arbitration and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards also contributed to facilitating international trade by emphasizing arbitration rather than confrontation in the event of disputes.

43. His delegation welcomed the decision to organize a Congress on International Trade Law during the twenty-fifth session of UNCITRAL in 1992. The exchange of views arising from that type of meeting encouraged the endorsement, in the spirit of cooperation, by bodies such as UNCITRAL of the work carried out in particular areas.

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44. The CHAIRMAN recalled that the Committee had also decided to consider under item 131 (Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization) the report of the Secretary-General on the United Nations Rules for the Conciliation of Disputes between States (A/45/383). He suggested that the Committee should devote the week of 30 September to 4 October to the debate on the report of the Special Committee on the Charter and consider the report on the rules for the conciliation of disputes on 7 and 8 October.

45. Mr. TOMKA (Czechoslovakia) asked whether his delegation could make a statement regarding the report of the Special Committee on the Charter on 8 October.

46. The CHAIRMAN replied that it would be preferable for that statement to be made during the week of 30 September to 4 October in order to keep the consideration of the report of the Special Committee on the Charter separate from the discussion on the rules for the conciliation of disputes.

47. Mr. WOOD (United Kingdom) asked whether delegations could comment on the two reports in a single statement, a solution preferred by his delegation.

48. The CHAIRMAN said he saw no reason why that could not be done.

49. Mr. BRAVO (Italy) said that his delegation wished to discuss the two reports in the same statement, but on 7 October.

50. The CHAIRMAN repeated that he would prefer to devote 7 and 8 October exclusively to the rules for the conciliation of disputes so that it could be the subject of a separate discussion.

51. Mr. BERG (Germany) said that those delegations wishing to make a separate statement on the rules for the conciliation of disputes and those wishing to cover both the rules for the conciliation of disputes and the report of the Special Committee on the Charter in the same statement could do so on 7 and 8 October.

52. Ms. WILLSON (United States of America) said that, like the Chairman, she would prefer not to combine the two discussions. As some delegations seemed nevertheless to have difficulty making their comments on the report of the Special Committee on the Charter during the week of 30 September to 4 October, they might be permitted to make their statements, in one group, on 7 and 8 October, at either the beginning or the end of the meeting. The two discussions would thus remain separate.

53. The CHAIRMAN said that, if he heard no objections, he would take it that the Committee wished to adopt that solution.

54. It was so decided.

The meeting rose at 11.40 a.m.